



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Montana State Office  
5001 Southgate Drive  
Billings, Montana 59101-4669  
[www.blm.gov/montana-dakotas](http://www.blm.gov/montana-dakotas)  
March 6, 2018

In Reply Refer To:  
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7013 1710 0002 0475 4778

Dr. Jim Brandau  
We Care Chiropractic  
124 S. Main St., Suite 205  
Livingston, Montana 59047

## DECISION

### PROTEST DISMISSED

#### I. INTRODUCTION

On December 14, 2017, a Lease Sale Notice for the Montana State Office (MSO), March 13, 2018, Competitive Oil and Gas Lease Sale was posted, which initiated a 30-day protest period. At the same time, the Butte Field Office (BFO) Oil and Gas Leasing Environmental Assessment (EA), updated after a 30-day public comment period, was made available to the public.

In a letter to the Bureau of Land Management (BLM) dated January 6, 2018 (Enclosure 1), Dr. Jim Brandau (Protester) submitted a timely protest to the inclusion of two parcels (five polygons) located in the BFO planning area, Montana. The two protested lease parcels are MTM 108952-FT and MTM 108952-FU.

#### II. BACKGROUND

Public scoping for this lease sale was conducted from August 15-29, 2017. This scoping period was announced in a press release issued by the MSO. The BFO also posted National Environmental Policy Act (NEPA) notification log, reference number DOI-BLM-MT-L002-2017-0003-EA. In addition, the MSO mailed surface owner notification letters explaining the oil and gas leasing and planning processes. The letters requested written comments regarding any issues or concerns that should be addressed in the EA being prepared for the lease parcels. The Protester did not submit comments at that time.

On September 30, 2017, the BLM Montana/Dakotas released the BFO Oil and Gas Leasing EA for a 30-day public comment period. The EA analyzed the potential effects from offering nine (9) nominated lease parcels in Park County, Montana containing 4307 acres of Federal Mineral Estate in the MSO, March 13, 2018, Competitive Oil and Gas Lease Sale. Relevant public comments received during this process were addressed in the EA, as appropriate. The Protester

did not submit comments at that time. The EA was updated and posted, along with the Notice of Competitive Oil and Gas Lease Sale, on December 14, 2017, on the BLM's ePlanning website for a 30-day protest period.

After a review of potential environmental impacts presented in the EA and the public comments, the BFO Field Manager recommended that six (6) parcels be included in the March 13, 2018, lease sale. As a result of the Decision Record, a total of six (6) nominated BFO lease parcels (2,652 acres of Federal minerals) in the BFO planning area would be offered for lease at the MSO, March 13, 2018, Competitive Oil and Gas Sale with lease stipulations and/or lease notices as necessary for the protection and conservation of the resources associated with the lease issuances.

### **III. PROTEST SUMMARY**

**Protest Summary:** The Protester submitted a timely protest (via letter) dated January 6, 2018 to the inclusion of two parcels (five polygons) identified in the MSO, March 13, 2018, Competitive Oil and Gas Sale. The Protester expressed concerns about the best and highest value for the parcels, proximity to Yellowstone National Park, water resources, viewshed, and economics.

#### **BLM Response:**

The BLM Montana State Director has decided to defer lease parcels MTM 108952-FT and MTM 108952-FU from the MSO, March 13, 2018, Competitive Oil and Gas Lease Sale.

### **IV. CONCLUSION**

#### **The BLM dismisses this protest as moot.**

The BLM, in accordance with existing regulations and policies, will defer leasing actions and will not offer for lease the two protested parcels as described in the MSO, March 13, 2018, Notice of Competitive Oil and Gas Lease Sale.

#### **Administrative Review and Appeal**

This Decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 C.F.R. § 4 and Form 1842-1 (Enclosure 2). If an appeal is taken, the Notice of Appeal must be filed in the Montana State Office at the above address within 30 days from receipt of this Decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay of the effectiveness of this Decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice

of appeal. A petition for a stay must show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for stay must be submitted to the IBLA and the appropriate Office of the Solicitor (see 43 C.F.R. § 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall be evaluated based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.

/s/ Donato J. Judice

Donato J. Judice  
Deputy State Director  
Energy, Minerals & Realty

#### 2 Enclosures

- 1- Protest Letter dated January 6, 2018 (1 p)
- 2- Form 1842-1 (2 pp)

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